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10-16813

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF ARIZONA**

IN RE:

Martha G. Rodriguez

Debtor.

U. S. Bank Natioanal Association, as trustee, on  
behalf of holders of the Asset Backed Pass-Through  
Certificates, Series RFC 2007-HE1

Movant,

vs.

Martha G. Rodriguez, Debtor; Brian J. Mullen,  
Trustee.

Respondents.

No. 2:10-bk-18952-SSC

Chapter 7

**MOVANT'S MOTION TO LIFT  
THE AUTOMATIC BANKRUPTCY STAY**

RE: Real Property Located at  
3262 East Calypso Avenue  
Mesa, AZ 85204

Movant hereby requests an order granting relief from the automatic stay of 11 U.S.C. 362(a), to permit Movant to foreclose the lien of its Deed of Trust on real property owned by Debtors by trustee's sale, judicial foreclosure proceedings or the exercise of the power of sale, and to obtain possession and control of the real property.

1 This motion is supported by the attached Memorandum of Points and Authorities, which is  
2 incorporated herein by this reference.

3 DATED this 25th day of June, 2010.

4 Respectfully submitted,  
5 TIFFANY & BOSCO, P.A.  
6

7  
8 BY /s/ MSB # 010167  
9 Mark S. Bosco  
10 Leonard J. McDonald  
11 Attorney for Movant

12 MEMORANDUM OF POINTS AND AUTHORITIES

13 Martha G. Rodriguez filed a voluntary petition for protection under Chapter 7 of the Bankruptcy  
14 Code. Brian J. Mullen was appointed trustee of the bankruptcy estate. Debtor has an interest in that certain  
15 real property located in Maricopa County, AZ, more particularly described as:

16 LOT 98, SUNTRAILS III, ACCORDING TO BOOK 231 OF MAPS, PAGE 40, RECORDS OF  
17 MARICOPA COUNTY, ARIZONA.

18 Debtor executed a Note secured by a Deed of Trust, dated June 15, 2006, recorded in the office of  
19 the Maricopa County Recorder's Office. True copies of the Note and Deed of Trust are annexed as  
20 Exhibits "A" and "B", respectively, and made a part hereof by this reference.

21 The Note and Deed of Trust reflect Aegis Funding Corporation as "Lender". Upon information  
22 and belief that Aegis Funding Corporation is no longer in business and is not in possession of the custodial  
23 file. Pursuant to the terms of the Note and Deed of Trust Mortgage Electronic Registration Systems, Inc.  
24 "MERS" is a separate Corporation that is acting as nominee for Aegis Funding Corporation.

25 The Note and the beneficial interest in the Deed of Trust is currently held by U. S. Bank  
26 Natioanal Association, as trustee, on behalf of holders of the Asset Backed Pass-Through Certificates,  
Series RFC 2007-HE1. A true and correct copy of the Assignment of Deed of Trust is attached hereto as  
Exhibit "C" and incorporated herein by reference.

1 Debtor is in default on his obligation to Movant for which the property is security, and payments  
2 are due under the Promissory Note from and after December 1, 2009.

3 Movant is informed and believes and therefore alleges that the Debtor and the bankruptcy estate  
4 have no equity in the property. Pursuant to Debtors statement of intentions the debtor intends on  
5 surrendering his interest in the subject property. A true and correct copy of the Debtor's Statement of  
6 Intention is attached hereto as Exhibit "D".

7  
8 Further, Movant seeks relief for the purpose of foreclosing its Deed of Trust against the Debtor's  
9 interest in the real property located at 3262 East Calypso Avenue, Mesa, AZ. The Movant further seeks  
10 relief in order to contact the Debtor by telephone or written correspondence regarding a potential  
11 Forbearance Agreement, Loan Modification, Refinance Agreement, or other Loan Workout/Loss  
12 Mitigation Agreement, and may enter into such agreement with Debtors.

13 CONCLUSION

14 Movant requests that the court enter an order vacating the automatic stay of 11 U.S.C. Section  
15 362(a) as to the debtor, his bankruptcy estate, the property, and Movant; to allow Movant to foreclose the  
16 lien of its Deed of Trust or Mortgage; to evict Debtor and/or successors of Debtor; and to obtain  
17 ownership, possession and control of the Property.

18 DATED this 25th day of June, 2010.

19 TIFFANY & BOSCO, P.A.

20  
21 By /s/ MSB # 010167  
22 Mark S. Bosco  
23 Leonard J. McDonald  
24 2525 East Camelback Road, Suite 300  
25 Phoenix, Arizona 85016  
26 Attorneys for Movant